



A DOCPHOENIX

## APPL PARTS

IMIS \_\_\_\_\_  
Internal Misc. Paper

LET. \_\_\_\_\_  
Misc. Incoming Letter

371P \_\_\_\_\_  
PCT Papers in a 371 Application

A... \_\_\_\_\_  
Amendment Including Elections

ABST \_\_\_\_\_  
Abstract

ADS \_\_\_\_\_  
Application Data Sheet

AF/D \_\_\_\_\_  
Affidavit or Exhibit Received

APPENDIX \_\_\_\_\_  
Appendix

ARTIFACT \_\_\_\_\_  
Artifact

BIB \_\_\_\_\_  
Bib Data Sheet

CLM \_\_\_\_\_  
Claim

COMPUTER \_\_\_\_\_  
Computer Program Listing

CRFL \_\_\_\_\_  
All CRF Papers for Backfile

DIST \_\_\_\_\_  
Terminal Disclaimer Filed

DRW \_\_\_\_\_  
Drawings

FOR \_\_\_\_\_  
Foreign Reference

FRPR \_\_\_\_\_  
Foreign Priority Papers

IDS \_\_\_\_\_  
IDS Including 1449

NPL \_\_\_\_\_  
Non-Patent Literature

OATH \_\_\_\_\_  
Oath or Declaration

PET. \_\_\_\_\_  
Petition

RETMAIL \_\_\_\_\_  
Mail Returned by USPS

SEQLIST \_\_\_\_\_  
Sequence Listing

SPEC \_\_\_\_\_  
Specification

SPEC NO \_\_\_\_\_  
Specification Not in English

TRNA \_\_\_\_\_  
Transmittal New Application

## OUTGOING

CTMS \_\_\_\_\_  
Misc. Office Action

1449 \_\_\_\_\_  
Signed 1449

892 \_\_\_\_\_  
892

ABN \_\_\_\_\_  
Abandonment

APDEC \_\_\_\_\_  
Board of Appeals Decision

APEA \_\_\_\_\_  
Examiner Answer

CTAV \_\_\_\_\_  
Count Advisory Action

CTEQ \_\_\_\_\_  
Count Ex parte Quayle

CTFR \_\_\_\_\_  
Count Final Rejection

20/05/03 CTNF 5 \_\_\_\_\_  
Count Non-Final

CTRS \_\_\_\_\_  
Count Restriction

EXIN \_\_\_\_\_  
Examiner Interview

M903 \_\_\_\_\_  
DO/EO Acceptance

M905 \_\_\_\_\_  
DO/EO Missing Requirement

NFDR \_\_\_\_\_  
Formal Drawing Required

NOA \_\_\_\_\_  
Notice of Allowance

PETDEC \_\_\_\_\_  
Petition Decision

## INCOMING

AP.B \_\_\_\_\_  
Appeal Brief

C.AD \_\_\_\_\_  
Change of Address

N/AP \_\_\_\_\_  
Notice of Appeal

PA.. \_\_\_\_\_  
Change in Power of Attorney

REM \_\_\_\_\_  
Applicant Remarks in Amendment

XT/ \_\_\_\_\_  
Extension of Time filed separate

## File Wrapper

FWCLM \_\_\_\_\_  
File Wrapper Claim

IIFW \_\_\_\_\_  
File Wrapper Issue Information

SRFW \_\_\_\_\_  
File Wrapper Search Info

## Internal

SRNT \_\_\_\_\_  
Examiner Search Notes

CLMPTO \_\_\_\_\_  
PTO Prepared Complete Claim Set

ECBOX \_\_\_\_\_  
Evidence Copy Box Identification

WCLM \_\_\_\_\_  
Claim Worksheet

WFEE \_\_\_\_\_  
Fee Worksheet



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/394,159	09/13/1999	FRED S. MILLER	II-10091	3835

7590 05/20/2003

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EXAMINER

CINTINS. IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 05/20/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
**09/394,159**

Applicant(s)

**Miller et al.**

Examiner

**Ivars Cintins**

Art Unit

**1724**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Feb 26, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above, claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-12, 21, and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s).        |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). | 6) <input type="checkbox"/> Other:  |

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In view of the fact that generic claim 1 is no longer being rejected over any prior art, previously non-elected species claim 22 is hereby rejoined with the elected claims. Claims 13-20 remain withdrawn from consideration, as being directed to a non-elected invention (i.e. method). Applicant should cancel these non-elected method claims in response to this Office action.

Also, in view of Applicant's remarks contained in the response filed February 26, 2003, it is agreed that the limitation contained in the last line of claim 1 is supported by the disclosure originally filed, since the specification states that the "SPME device 40 is mounted to the top of the plunger 52. Accordingly, the new matter rejection contained in the previous Office action is hereby withdrawn. However, the following lack of enablement rejection is deemed to be appropriate.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-12, 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most

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nearly connected, to make and/or use the invention. It is not readily apparent that the support structure is capable of being attached to the plunger portion of a syringe, as recited in the last line of claim 1. As shown in Fig. 4, the only figure showing an embodiment which includes a syringe, the SPME device 40 is enclosed in a metal sleeve 60, which metal sleeve extends through the plunger 52, and appears to terminate at the handle 54. Accordingly, it is not seen how the support structure 44, enclosed within this metal sleeve, can be "attached to the plunger" since metal sleeve 60 appears to prevent this support structure from ever coming in contact with the plunger.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-12, 21 and 22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. These claims appear to be misdescriptive, since it is not readily apparent that the support structure is capable of being attached to the plunger portion of a syringe, as recited in the last line of claim 1, for the reasons given above.